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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION N
10/666,931	09/18/2003	Klaus Kramer	NHL-HOL-61	6472
7590	10/01/2004		EXAMINER	
			SIPOS, JOHN	
			ART UNIT	PAPER NUMBER
			3721	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/666,931

Applicant(s)

KRAMER ET AL.

Examiner

John Sipos

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

THE DRAWINGS

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims.

The following features are not shown in the drawings:

- The various heating mechanisms of subparagraph (A) of claim 2 and Claims 3 and 6.
- The cooling mechanism of the last paragraph of claim 2 and claim 20.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

THE ABSTRACT

This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

REJECTIONS OF CLAIMS BASED ON FORMAL MATTERS

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following is a quotation of 37 CFR 1.71(a)-(c):

(a) The specification must include a written description of the invention or discovery and of the manner and process of making and using the same, and is required to be in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which the invention or discovery appertains, or with which it is most nearly connected, to make and use the same.

(b) The specification must set forth the precise invention for which a patent is solicited, in such manner as to distinguish it from other inventions and from what is old. It must describe completely a specific embodiment of the process, machine, manufacture, composition of matter or improvement invented, and must explain the mode of operation or principle whenever applicable. The best mode contemplated by the inventor of carrying out his invention must be set forth.

(c) In the case of an improvement, the specification must particularly point out the part or parts of the process, machine, manufacture, or composition of matter to which the improvement relates, and the description should be confined to the specific improvement and to such parts as necessarily cooperate with it or as may be necessary to a complete understanding or description of it.

The specification is objected to under 37 CFR 1.71 as failing to adequately teach how to make and use the invention, i.e. failing to provide an enabling disclosure. It is not clear to what mechanism the "apparatus...to press and smooth a label to a bottle" refers in claims 1-3.

Claims 2 and 3 are rejected under **35 U.S.C. ' 112, first paragraph**, as being as being predicated on an **insufficient disclosure** for the reasons set forth in the objection

Art Unit: 3721

to the specification set forth above. Claim 2 sets forth in paragraphs (E) and (F) first and second structures. Since this claim sets forth that the mechanisms of all the paragraphs are part of the claimed machine it is not clear to what these two sets of first and second structure refer. The specification sets forth only one of these structures in a single machine. Similarly Claim 3 requires in the first line "at least one" of the following mechanisms; however since this language covers more than one mechanism, the specification does not support both structures of paragraphs (E) and (F) existing in the same machine.

The following is a quotation of the second paragraph of 35 U.S.C. ' 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2,3,8-12 and 18-20 are rejected under **35 U.S.C. ' 112, second paragraph**, as being **indefinite** for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. See comments made above.

Claims 2,8 and 18-20 are also indefinite in that the vacuum apparatus is part of the gripper mechanism that is claimed earlier and is not a separate mechanism.

REJECTIONS OF CLAIMS BASED ON PRIOR ART

The use of the terms "configured" and "configured and disposed" and the related functions in the claims are given full weight and are considered as "means plus function" terminology.

Art Unit: 3721

The following is a quotation of the appropriate paragraphs of 35 U.S.C. ' 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 4-20 are rejected under 35 U.S.C. ' 102(b) as being clearly anticipated by the patent to Kontz (2,621,823) or Perry (4,724,029). Each of these patents shows a labeling station that comprises a conveyor for moving containers (49/50 and 24, respectively), a label storage magazine (R and C, respectively), a first rotating structure for feeding the labels (D and 22, respectively), a second rotating structure for further feeding and applying the labels to the containers ((5 and E, respectively), label gripper apparatus comprising of a vacuum mechanism to grip the labels (column 2, line 66 et seq. and column 1, line 39 et seq. , respectively), heating mechanism to heat the labels prior to their application to the containers (15 and E, respectively) and control mechanism to control the various mechanisms.

Regarding claims 12 and 20, the vacuum grippers of both references are heated by either the hot air blower 15 of Kontz or the drum E of Perry.

Claims 4-9 and 13-18 are rejected under 35 U.S.C. ' 102(b) as being clearly anticipated by the patent to Voltmer (4,605,459) or Von Hofe (2,524,945). Each of these patents shows a labeling station that comprises a conveyor for moving containers (104

Art Unit: 3721

and b', respectively), a label storage magazine (10 and 24, respectively), a rotating structure for feeding and applying the labels to the containers (133 and 14, respectively), label gripper apparatus comprising of a vacuum mechanism to grip the labels (24 and 19, respectively), heating mechanism to heat the labels prior to their application to the containers (23 and 20/20a, respectively) and control mechanism to control the various mechanisms.

The following is a quotation of 35 U.S.C. ' 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16,17,19,20 and 22-27 are rejected under **35 U.S.C. ' 103(a)** as being unpatentable over the patent to Kontz (2,621,823) or Perry (4,724,029) or Voltmer (4,605,459) or Von Hofe (2,524,945). The use of filling mechanisms and closing mechanisms (claim 1) are well known in the art and their use would have been obvious to one of ordinary skill in the art prior to applying the sleeves to the containers. Similarly, the use of label storage magazine configured to hold a stack of labels is well known in the art and it would have been obvious to use such a magazine instead of the magazine holding a supply roll of labels of Kontz, Voltmer or Von Hofe to positively have control over each individual label.

ADDITIONAL REFERENCES CITED

The cited prior art is made of record but has not been relied upon in the rejection of claims. However, the prior art is considered pertinent to applicant's disclosure.

The patents to Focke, Swenson, Adachi (see Figure 1), Tsutsumi and Von Hofe show labeling devices for containers wherein the labels are heated prior to their application to the containers.

The patents to Pazdernik and Lemke show drums with vacuum gripping means that feed labels to articles.

Any inquiry concerning this communication should be directed to **Examiner John Sipos** at telephone number **(703) 308-1882**. The examiner can normally be reached from 6:30 AM to 4:00 PM Monday through Thursday.

The **FAX** number for Group 3700 of the Patent and Trademark Office is **(703) 872-9302**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Rinaldi Rada, can be reached at (703) 308-2187.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is (703) 308-1148.



John Sipos
Primary Examiner
Art Unit 3721

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